

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company Regarding Year Seven (2000-2001) Under Its Experimental Gas Cost Incentive Mechanism and Related Gas Supply Matters. (U 904 G)

Application 01-06-027
(Filed June 15, 2001)

**REVISED SCOPING MEMO AND RULING OF THE ASSIGNED
COMMISSIONER AND ADMINISTRATIVE LAW JUDGE REGARDING YEAR
SEVEN OF THE GAS COST INCENTIVE MECHANISM**

Summary

Southern California Gas Company (SoCalGas) filed its Year Seven Gas Cost Incentive Mechanism (GCIM) application on June 15, 2001. A prehearing conference was held on October 29, 2001 and November 6, 2002 to discuss whether the issues raised by the protestants should be examined in this application or elsewhere, and to determine the procedural schedule for processing this application. A scoping memo and ruling was issued on January 6, 2003. The scoping memo and ruling identified two issues in this proceeding, determined that no evidentiary hearings were required, and proposed that a draft decision be issued on the two issues.

In Order Instituting Investigation (I.) 02-11-040), which was adopted on November 21, 2002, the Commission opened an investigation into the cause of the natural gas border price spikes from March 2000 through May 2001. The first phase of that investigation will “focus on the Sempra Energy Companies to more fully explore the issues raised in SoCalGas’ GCIM proceeding....” (I.02-11-040,

p. 9.) The investigation also states that if “the conduct of the respondents contributed to the gas price spikes at the California border during the named period, it may modify or eliminate the respondent’s [GCIM], reduce the amount of the shareholder award for the period involved, or order respondents to issue a refund to ratepayers to offset the higher rates paid.” (I.02-11-040, p. 2.)

Due to the potential impact that I.02-11-040 could have on the shareholder award amount requested in this proceeding, the process and schedule set forth in the January 16, 2003 scoping memo and ruling should be revised. Instead of issuing a draft decision at this time for the Commission’s consideration, further processing of this application should take place after there has been a Commission decision or a ruling on SoCalGas’ actions during the period covered by I.02-11-040.

Background

The protests to the Year Seven GCIM application assert that the existing GCIM structure creates perverse incentives that detrimentally impacts the California energy markets, and allows SoCalGas to conduct its operations in a way that benefits shareholders at the expense of core and noncore customers. The protests also assert that as a result of the GCIM structure, SoCalGas engaged in hub services and future market transactions in Year Seven which had a negative effect on SoCalGas’ customers, and that the GCIM may have contributed to high California border prices for natural gas.

On November 21, 2002, the Commission adopted I.02-11-040, which opened an investigation into the following issues, among others:

“2. Did any of the utilities’ affiliates or parent companies play a role in causing the increase in border prices? Did concerns about affiliates or parents’ financial position cause utilities to take actions that may have increased gas costs?

“ ...

“4. Did the utilities’ gas cost incentive mechanisms create perverse incentives to increase or otherwise manipulate natural gas prices at the California border? We shall examine whether SoCalGas’ Year 7 and Year 8 operations under the GCIM, enabled them to exercise market power and/or anticompetitive behavior; If so, should these incentive mechanisms be modified or eliminated to prevent such activity.” (I.02-11-040, p. 9.)

The scoping memo and ruling in this proceeding was issued on January 16, 2003.

Revised Scope and Schedule

The January 16, 2003 scoping memo and ruling identified two issues in this proceeding. The first issue is whether the calculation of the shareholder award for Year Seven under the GCIM, as modified by D.02-06-023,¹ is correct or not. The second issue is whether SoCalGas’ acquisition operations during Year Seven were reasonable within the context of the authorized GCIM.

Since no one contested the manner in which the shareholder award was calculated for Year Seven, the scoping memo and ruling stated that the first issue could be resolved by examining the Office of Ratepayer Advocates’ (ORA) Monitoring and Evaluation Report of November 2, 2001. Although the second issue was also addressed in ORA’s report, certain parties raised concerns in this proceeding about the GCIM structure, and whether SoCalGas’ operations amounted to market power, anticompetitive behavior, or was a cause of the high

¹ D.02-06-023 resolved the Phase II Year Six GCIM issues. As part of that decision, the Commission approved a settlement agreement modifying and extending the GCIM. D.02-06-023 also directed the Energy Division to prepare an investigation into the gas border price spikes that occurred during the winter of 2000 through spring 2001.

gas prices experienced in late 2000 through spring 2001. The scoping memo and ruling stated that D.02-06-023 and I.02-11-040 either addressed the concerns of the parties or would provide a forum for addressing those concerns.

The scoping memo and ruling concluded that the two issues did not require evidentiary hearings, and that a draft decision would be issued on February 28, 2003.

Upon further review, the processing of the Year Seven GCIM application should be delayed until certain issues are resolved in I.02-11-040. In I.02-11-040, the Commission opened an investigation into the cause of price spikes of natural gas border prices from March 2000 through May 2001. The first phase of this investigation will “focus on the Sempra Energy Companies to more fully explore the issues raised in SoCalGas’ GCIM proceeding....” (I.02-11-040, p. 9.)

I.02-11-040 states that:

“If the investigation reveals that the conduct of respondents contributed to the gas price spikes at the California border during the named period, it may modify or eliminate the respondent’s [GCIM], reduce the amount of the shareholder award for the period involved, or order respondents to issue a refund to ratepayers to offset the higher rates paid. If the investigation reveals that statutory laws, or rules or orders of the Commission were violated, the Commission may enter into an adjudicatory phase of this investigation.” (I.02-11-040, p. 2.)

Under the January 16, 2003 schedule, a draft decision was to be issued on the two issues without any hearings. However, if the draft decision recommends that the Commission adopt a shareholder award, that award could be affected at a later time if the Commission concludes in I.02-11-040 that SoCalGas’ actions contributed to the price spikes at the California border in March 2000 through May 2001. I.02-11-040 leaves open the possibility that the Year Seven GCIM

shareholder award could be reduced or eliminated and SoCalGas ordered to issue a refund.

Due to the uncertainty of the status of the Year Seven shareholder award amount, this proceeding should trail the outcome of I.02-11-040 on whether SoCalGas' actions affected the spikes in gas border prices during the investigation period. The issues identified in the scoping memo and ruling shall remain unchanged, but could be broadened at a later date depending on what happens in I.02-11-040. The procedural process and schedule adopted in the January 16, 2003 scoping memo and ruling shall be revised. Instead of issuing a draft decision at this point in time about the Year Seven shareholder award and whether SoCalGas' acquisition operations were reasonable within the context of the authorized GCIM, further processing of this proceeding shall await the outcome of I.02-11-040 with respect to SoCalGas. Although the January 16, 2003 scoping memo and ruling stated that no evidentiary hearings are needed in this proceeding, the need for evidentiary hearings may change depending on what occurs in I.02-11-040.

Since the Commission opened the investigation into the possible causes of high natural gas prices, the results of that investigation may impact SoCalGas' Year Seven GCIM application. As a result, the processing of this application is likely to take longer than 18 months from the filing of the Year Seven GCIM application.

The schedule for this proceeding shall be revised as follows. Following the adoption of a Commission decision or the issuance of a ruling regarding the actions of the Sempra energy companies, specifically that of SoCalGas, during the investigation period covered by I.02-11-040, a ruling will issue in this proceeding outlining one or more of the following: whether a prehearing

conference is needed to discuss the impact of the results of I.02-11-040 on this proceeding; whether the scope of issues need to be revised; whether evidentiary hearings are needed; or whether a draft decision can be issued without the need for any hearings.

IT IS RULED that:

1. The January 16, 2003 Scoping Memo and Ruling shall be revised as set forth in this ruling.
2. The revised scope and schedule for the processing of this proceeding are as listed in the body of this ruling.

Dated March 18, 2003, at San Francisco, California.

/s/ LORETTA LYNCH

Loretta Lynch
Assigned Commissioner

/s/ JOHN S. WONG

John S. Wong
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Revised Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge Regarding Year Seven of the Gas Cost Incentive Mechanism on all parties of record in this proceeding or their attorneys of record.

Dated March 18, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.